IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

WP(C).No. 31229 of 2006(P)

PETITIONER:

T.K. RAJENDRAN, RAJESH TRANSPORT,
KANNUR.

BY ADV. SRI.K.V.GOPINATHAN NAIR

RESPONDENTS:

THE SECRETARY, REGIONAL TRANSPORT
AUTHORITY, KANNUR.

BY GOVERNMENT PLEADER SMT. M.K. PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO: 31229/2006 P

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT DT. 11/11/2005.

EXT.P2. COPY OF THE ORDER BY THE RESPONDENT DT. 28/6/2006.

EXT.P3. COPY OF THE REVISION MEMORANDUM AS MVARP NO. 352/2006 DT. 23/8/2006.

EXT.P4. COPY OF THE ORDER BY THE STAT DT. 28/10/2006 IN MVARP NO. 352/2006.

[True Copy]

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K.BALAKRISHNAN NAIR, J.

WP(C).No.31229 of 2006-P

Dated this the 8th day of February, 2007.

JUDGMENT

The petitioner is operating Stage Carriage Kl-13/L 90 on the route Kanhangad-Kozhikode as Limited Stop Ordinary Service, on the strength of a regular permit, which is valid upto 24-5-2005. The running time of the said vehicle is 1.75 minutes per kilometer. He wants to reduce it to 1.50 minutes per kilometer. He pointed out that few vehicles are at the rate of 1.50 minutes per kilometer. But, the said request was turned down by the Secretary, R.T.A., by Ext.P2 proceedings dated 28-6-2006. The Secretary found that some of the buses are permitted to operate with the running time 1.5 minutes per kilometer on the strength of Court orders. Challenging Ext.P2, the petitioner filed a revision. The said revision was disposed of by Ext.P4 order. The operative portion of the said order reads as follows:

> "In the result, the matter is remanded to re-fix the running time at 1.5 minutes per kilo meter only if all other similar services on the route are operating at such a speed. If services operating at 1.75 minutes per kilo meter are there no revision of timing is called for."

2. The petitioner submits the above direction will result in .....hands of the Secretary, R.T.A. from revising the time schedule even if there is time clash. So, the petitioner prays for vacating the condition imposed for re-fixing the running time.

2. The respondent has filed a statement supporting the retention of the running time as 1.75 minutes per kilometer.

3. Whether the petitioner can be allowed running time at the rate of 1.5 minutes per kilometer or not is a matter which the Secretary may decide with reference to the condition of the route, the number of vehicles and other relevant factors. Even if some of the buses are allowed to operate with the running time of 1.5 minutes per kilometer, the same does not mean that all other buses should be granted with the very same running time. It cannot also be held that the petitioner can operate with 1.5 minutes per kilometer, if only other services are operated with the running time of 1.5 minutes per kilometer.

In the result, Exts.P2 and P4 are set aside. The Secretary, R.T.A. is directed to take a fresh decision in the matter, after affording an opportunity of being heard to the petitioner and other affected operators as to whether any change in the running time can be granted or whether the petitioner's time schedule can be properly

modified ,to avoid clash of timings, within two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
MS JUDGE.